

# COUNTY OF YORK

## MEMORANDUM

**DATE:** February 28, 2002 (BOS Mtg. 3/19/2002)

**TO:** York County Board of Supervisors

**FROM:** James O. McReynolds, County Administrator

**SUBJECT:** Minor Modification – Application No. UP 531-98, VoiceStream Wireless  
(Fire Station No. 6, Seaford)

### **ISSUE**

Pursuant to Section 24.1-115(d)(2) of the York County Zoning Ordinance, the applicant is requesting a minor use permit amendment to authorize a 10-foot increase in height of an existing 150-foot freestanding monopole communications tower approved on June 17, 1998. The subject parcel is located at 503 Back Creek Road, is occupied by York County Fire Station No. 6, and is further identified as Assessor's Parcel No. 25-205.

### **DESCRIPTION**

- Property Owner: County of York (VoiceStream Wireless is applicant)
- Location: 503 Back Creek Road (Fire Station No. 6)
- Area: Approximately 6.7 acres
- Frontage: Approximately 200' on Back Creek Road
- Utilities: Public water and sewer
- Topography: Flat
- 2015 Land Use Map Designation: General Industrial
- Zoning Classification: IG – General Industrial
- Existing Development: Fire Station No. 6 and 150-foot freestanding monopole communications tower
- Surrounding Development:
  - North: Vacant, wooded
  - East: Hampton Roads Sanitation District facility
  - South: Back Creek Road, wooded beyond
  - West: Vacant, wooded

- Proposed Development: Increase the height of an existing 150-foot communications tower with associated ground-mounted equipment to a total height of 160 feet to provide co-location.

## **CONSIDERATIONS/CONCLUSIONS**

1. VoiceStream Wireless is proposing to increase by 10 feet the height of a 150-foot communications tower to a total height of 160-feet. According to Section 24.1-115(d)(2), minor enlargements, expansions, increases in intensity, relocations, or modifications of any conditions of an approved and currently valid special use may, without public hearing, be authorized, including the establishment or reestablishment of reasonable conditions, by resolution of the Board. The applicant's tower will support antennae used for a personal communications system (PCS) that uses wireless digital technology. The antenna site is needed so that VoiceStream Wireless can enhance its digital communications coverage throughout the County. The monopole tower is structurally designed and has been constructed to accommodate several wireless users. With the addition of VoiceStream, there will be three wireless users that utilize the tower. This co-location strategy is consistent with established County policy to encourage co-location facilities wherever possible to prevent the proliferation of communication towers throughout the County. The County has continually encouraged towers with co-location opportunities rather than towers of lower heights with single users. The Comprehensive Plan designates the subject property for General Industrial uses.
2. The subject property is owned by the County and is the site of Fire Station No. 6. Before selecting this site, the applicant approached the County and expressed its desire to find a potential antenna location in this coverage area. As part of the site selection process, VoiceStream Wireless worked closely with the staff to select the most effective and least-obtrusive antenna site in the community, a primary objective of the County. The tower site selected at Fire Station No. 6 is a good opportunity for VoiceStream to serve the Seaford and Dandy communities. It should be noted that there are few alternatives that are close to the desired service area that do not encroach on residential areas.
3. Federal Aviation Administration (FAA) regulations require a permit for the construction of towers of this type. The applicant is aware that FAA approval is needed prior to the County's final approval for construction of the tower, and this is included as a condition of approval for this application. The FAA will analyze the proposed tower to ensure that it will not infringe on air traffic flight patterns. The proposed tower will not penetrate any of the air space protected by the provisions of the County's Airport Safety Overlay District. Should the FAA limit the height of the tower, the staff recommends that the use permit remain valid for the height approved, provided that the remaining conditions are met.
4. Water and sanitary sewer services are not necessary to serve the communication tower or the associated service buildings.

5. The applicant has submitted a statement from a registered engineer certifying that NIER (nonionizing electromagnetic radiation) emitted from the tower does not result in a ground level exposure at any point outside such facility which exceeds the maximum applicable exposure standards established by the U. S. Government or the American National Standards Institute.
6. Although the Federal Telecommunications Act of 1996 did not preempt local zoning authority, localities are somewhat constrained in their ability to deny or delay requests for towers. Such decisions may be enjoined or overturned by the FCC or federal courts if the intent or the effect of the decision is to discriminate between types of communications service providers, if the decision is not reached within a reasonable period of time, if the denial is unreasonable, or if the denial is based on public health concerns relating to radio frequency emissions. Additionally, the Act places an obligation upon localities to approve a facility somewhere within the footprint (coverage area) needed by the providers.

### **COUNTY ADMINISTRATOR RECOMMENDATION**

The proposed 10-foot increase in height of the tower can be accommodated on the site without adversely affecting emergency services operations or the surrounding community. In addition, this co-location request meets the Board's policy of limiting the further proliferation of towers in the County. The co-location advantages of this site have reduced additional requests for towers in this area, which is an apparent indication that the Board's policy has been effective in meeting its goal of fewer-but-taller towers rather than more-and-shorter ones. As citizens continue to demand various types of wireless communication services, public properties (e.g., schools, fire stations) represent attractive alternatives for communication providers because of their proximity to residential areas. Conditions are proposed in the resolution to ensure that the tower meets the necessary standards for safety and site location.

Based on all of these considerations, I recommend the adoption of proposed Resolution R02-53.

Carter/3337

Attachments

- Existing Zoning Map
- Site location map
- Tower sketch plan
- Proposed Resolution R02-53